

# House File 386

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1 3 AN ACT  
1 4 RELATING TO THE DEPARTMENT OF ELDER AFFAIRS INCLUDING  
1 5 PROVISIONS RELATING TO THE ELDER IOWANS ACT.  
1 6  
1 7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
1 8  
1 9 Section 1. Section 231.3, subsections 1, 3, and 4, Code  
1 10 2003, are amended to read as follows:  
1 11 1. An adequate income in retirement.  
1 12 3. Suitable housing, ~~appropriate to the special that~~  
1 13 ~~reflects the needs of older people.~~  
1 14 4. Full restorative services for those who require  
1 15 institutional care, and a comprehensive array of community=  
1 16 based, long-term care services adequate to sustain older  
1 17 people in their communities and, whenever possible, in their  
1 18 homes, including support for caregivers.  
1 19 Sec. 2. Section 231.4, Code 2003, is amended to read as  
1 20 follows:  
1 21 231.4 DEFINITIONS.  
1 22 For purposes of this chapter, unless the context otherwise  
1 23 requires:  
1 24 1. "Administrative action" means an action or decision  
1 25 made by an owner, employee, or agent of a long-term care  
1 26 facility, or by a governmental agency, which affects the  
1 27 service provided to residents covered in this chapter.  
1 28 2. "Commission" means the commission of elder affairs.  
1 29 3. ~~"Comprehensive and coordinated system" means a system~~  
1 30 ~~for providing all necessary supportive services, including~~  
1 31 ~~nutrition services, in a manner designed to:~~  
1 32 a. ~~Facilitate accessibility to, and utilization of, all~~  
1 33 ~~supportive services and nutrition services provided within the~~  
1 34 ~~geographic area served by the system by any public or private~~  
1 35 ~~agency or organization.~~  
2 1 b. ~~Develop and make the most efficient use of supportive~~  
2 2 ~~services and nutrition services in meeting the needs of~~  
2 3 ~~elders.~~  
2 4 c. ~~Use available resources efficiently and with a minimum~~  
2 5 ~~of duplication.~~  
2 6 4. ~~3.~~ "Department" means the department of elder affairs.  
2 7 5. ~~4.~~ "Director" means the director of the department of  
2 8 elder affairs.  
2 9 6. ~~5.~~ "Elder" means an individual who is sixty years of  
2 10 age or older. "Elderly" means individuals sixty years of age  
2 11 or older.  
2 12 7. ~~6.~~ "Equivalent support" means in-kind contributions of  
2 13 services, goods, volunteer support time, administrative  
2 14 support, or other support reasonably determined by the  
2 15 ~~commission department~~ as equivalent to a dollar amount.  
2 16 8. ~~7.~~ "Federal Act" means the Older Americans Act of 1965,  
2 17 42 U.S.C. } 3001 et seq., as amended to ~~and including February~~  
2 18 ~~1, 1986.~~  
2 19 9. ~~"Focal point" means a facility established to encourage~~  
2 20 ~~the maximum collocation and coordination of services for~~  
2 21 ~~elders.~~  
2 22 10. ~~"Greatest economic need" means the need resulting from~~  
2 23 ~~an income level at or below the poverty threshold established~~  
2 24 ~~by the bureau of the census.~~  
2 25 11. ~~"Greatest social need" means the need caused by~~  
2 26 ~~noneconomic factors which include physical and mental~~  
2 27 ~~disabilities, language barriers, and cultural or social~~  
2 28 ~~isolation including that caused by racial or ethnic status~~  
2 29 ~~which restricts an individual's ability to perform normal~~  
2 30 ~~daily tasks or which threatens the elder's capacity to live~~  
2 31 ~~independently.~~  
2 32 12. ~~"Information and referral source" means a location~~  
2 33 ~~where a department of elder affairs or any public or private~~  
2 34 ~~agency or organization:~~  
2 35 a. ~~Maintains current information with respect to the~~  
3 1 ~~opportunities and services available to elders, and develops~~  
3 2 ~~current lists of elders in need of services and opportunities.~~  
3 3 b. ~~Employs, where feasible, a specially trained staff to~~  
3 4 ~~assess the needs and capacities of elders, and to inform~~  
3 5 ~~elders of the opportunities and services.~~

3 6 13. "Legal assistance" means legal advice and  
3 7 representation by an attorney including, but not limited to,  
3 8 counseling or other appropriate assistance by a paralegal or  
3 9 law student under the supervision of an attorney, and includes  
3 10 counseling or representation by a person who does not possess  
3 11 a juris doctorate, where permitted by law, of elders with  
3 12 economic or social needs.

3 13 ~~14. 8. "Long-term care facility" means a long-term care~~  
3 14 ~~unit of a hospital, a licensed hospice program, a foster group~~  
3 15 ~~home, a group living arrangement, or a facility licensed under~~  
3 16 ~~section 135C.1 whether the facility is public or private.~~

3 17 ~~15. "Multipurpose senior center" means a community~~  
3 18 ~~facility for the organization and provision of a broad~~  
3 19 ~~spectrum of services, which shall include, but not be limited~~  
3 20 ~~to, health, social, nutritional, and educational services and~~  
3 21 ~~the provision of facilities for recreational activities for~~  
3 22 ~~elders.~~

3 23 ~~16. 9. "Resident's advocate program" means the state long-~~  
3 24 ~~term care resident's advocate program operated by the~~  
3 25 ~~commission department of elder affairs and administered by the~~  
3 26 ~~long-term care resident's advocate.~~

3 27 ~~10. "Unit of general purpose local government" means a~~  
3 28 ~~political subdivision of the state whose authority is general~~  
3 29 ~~and not limited to one function or combination of related~~  
3 30 ~~functions.~~

3 31 ~~For the purposes of this chapter, "focal point", "greatest~~  
3 32 ~~economic need", and "greatest social need" mean as those terms~~  
3 33 ~~are defined in the federal Act.~~

3 34 Sec. 3. Section 231.13, Code 2003, is amended to read as  
3 35 follows:

4 1 231.13 MEETINGS == OFFICERS.  
4 2 Members of the commission shall elect from the commission's  
4 3 membership a chairperson, and other officers as commission  
4 4 members deem necessary, who shall serve for a period of two  
4 5 years. The commission shall meet at regular intervals at  
4 6 least ~~six~~ four times each year and may hold special meetings  
4 7 at the call of the chairperson or at the request of a majority  
4 8 of the commission membership. The commission shall meet at  
4 9 the seat of government or such other place as the commission  
4 10 may designate. Members shall be paid a per diem as specified  
4 11 in section 7E.6 and shall receive reimbursement for actual  
4 12 expenses for their official duties.

4 13 Sec. 4. Section 231.14, unnumbered paragraph 1, and  
4 14 subsections 6, 7, 8, and 10, Code 2003, are amended to read as  
4 15 follows:

4 16 The commission is the policymaking body of the sole state  
4 17 agency responsible for administration of the ~~Older Americans~~  
4 18 ~~federal Act of 1965, as amended.~~ The commission shall:

4 19 6. Adopt policies to assure that the department will take  
4 20 into account the views of ~~recipients of supportive services or~~  
4 21 ~~nutrition services, or elders using multipurpose senior~~  
4 22 ~~centers~~ in the development of policy.

4 23 7. Adopt a formula for the distribution of federal ~~Older~~  
4 24 ~~Americans Act, state elderly services, and senior living~~  
4 25 ~~program~~ funds taking into account, to the maximum extent  
4 26 feasible, the best available data on the geographic  
4 27 distribution of elders in the state, and publish the formula  
4 28 for review and comment.

4 29 8. Adopt policies and measures to assure that preference  
4 30 will be given to providing services to elders with the  
4 31 greatest economic or social needs, with particular attention  
4 32 to low-income minority elders, ~~and include methods of carrying~~  
4 33 ~~out the preference in the state plan.~~

4 34 ~~10. Adopt policies by which eligibility for federal,~~  
4 35 ~~state, and local funding is established at age sixty, with~~  
5 1 ~~preference in service delivery given to elders age seventy-~~  
5 2 ~~five or older.~~

5 3 Sec. 5. Section 231.23, subsection 4, Code 2003, is  
5 4 amended to read as follows:

5 5 4. Advocate for elders by reviewing and commenting upon  
5 6 all state plans, budgets, laws, rules, regulations, and  
5 7 policies which affect elders and by providing technical  
5 8 assistance to any agency, organization, association, or  
5 9 individual representing the needs of the elders.

5 10 Sec. 6. NEW SECTION. 231.23A PROGRAMS AND SERVICES.

5 11 The department of elder affairs shall provide or  
5 12 administer, but is not limited to providing or administering,  
5 13 all of the following programs and services:

5 14 1. Elderly services including but not limited to home and  
5 15 community-based services such as adult day services,  
5 16 assessment and intervention, transportation, chore services,

5 17 counseling, homemaker services, material aid, personal care,  
5 18 reassurance, respite services, visitation, caregiver support,  
5 19 emergency response system services, mental health outreach,  
5 20 and home repair.

5 21 2. The senior internship program.  
5 22 3. The retired senior volunteer program.  
5 23 4. The case management program for the frail elderly.  
5 24 5. Administration relating to the long-term care  
5 25 resident's advocate program and training for resident advocate  
5 26 committees.

5 27 6. Administration relating to the area agencies on aging.  
5 28 7. Other programs and services authorized by law.

5 29 Sec. 7. Section 231.31, Code 2003, is amended by striking  
5 30 the section and inserting in lieu thereof the following:  
5 31 231.31 STATE PLAN ON AGING.  
5 32 The department of elder affairs shall develop, and submit  
5 33 to the commission of elder affairs for approval, a multiyear  
5 34 state plan on aging. The state plan on aging shall meet all  
5 35 applicable federal requirements.

6 1 Sec. 8. Section 231.32, Code 2003, is amended to read as  
6 2 follows:  
6 3 231.32 CRITERIA FOR DESIGNATION OF AREA AGENCIES ON AGING.  
6 4 1. The commission shall designate thirteen area agencies  
6 5 on aging, the same of which existed on July 1, 1985. The  
6 6 commission shall continue the designation until an area agency  
6 7 on aging's designation is removed for cause as determined by  
6 8 the commission or until the agency voluntarily withdraws as an  
6 9 area agency on aging. In that event, the commission shall  
6 10 ~~then proceed in accordance~~ with subsections 2 and 3.  
6 11 Designated area agencies on aging shall comply with the  
6 12 requirements of the federal Act.

6 13 2. The commission shall designate an area agency to serve  
6 14 each planning and service area, after consideration of the  
6 15 views offered by ~~the political subdivisions in the area units~~  
6 16 of general purpose local government. An area agency may be:  
6 17 a. An established office of aging which is operating  
6 18 within a planning and service area designated by the  
6 19 commission.  
6 20 b. Any office or agency of a unit of ~~a political~~  
6 21 ~~subdivision general purpose local government,~~ which is  
6 22 designated for the purpose of serving as an area agency by the  
6 23 chief elected official of such unit.  
6 24 c. Any office or agency designated by the appropriate  
6 25 chief elected officials of any combination of ~~political~~  
6 26 ~~subdivisions units of general purpose local government~~ to act  
6 27 on behalf of the combination for such purpose.  
6 28 d. Any public or nonprofit private agency in a planning  
6 29 and service area or any separate organizational unit within  
6 30 such agency which is under the supervision or direction for  
6 31 this purpose of the department of elder affairs and which can  
6 32 engage in the planning or provision of a broad range of  
6 33 supportive services or nutrition services within the planning  
6 34 and service area.

6 35 Each area agency shall provide assurance, determined  
7 1 adequate by the commission, that the area agency has the  
7 2 ability to develop an area plan and to carry out, directly or  
7 3 through contractual or other arrangements, a program in  
7 4 accordance with the plan within the planning and service area.  
7 5 In designating an area agency on aging within the planning and  
7 6 service area, the commission shall give preference to an  
7 7 established office of aging, unless the commission finds that  
7 8 no such office within the planning and service area has the  
7 9 capacity to carry out the area plan.

7 10 3. When the commission designates a new area agency on  
7 11 aging the commission shall give the right of first refusal to  
7 12 a ~~political subdivision~~ unit of general purpose local  
7 13 government if:  
7 14 a. Such unit can meet the requirements of subsection 1.  
7 15 b. The boundaries of such a unit and the boundaries of the  
7 16 area are reasonably contiguous.

7 17 Sec. 9. Section 231.33, Code 2003, is amended to read as  
7 18 follows:  
7 19 231.33 AREA AGENCIES ON AGING DUTIES.  
7 20 Each area agency on aging shall:  
7 21 1. Develop and administer an area plan on aging.  
7 22 2. Assess the types and levels of services needed by older  
7 23 persons in the planning and service area, and the  
7 24 effectiveness of other public or private programs serving  
7 25 those needs.  
7 26 3. Enter into subgrants or contracts to provide ~~all~~  
7 27 services under the plan.

7 28 4. Provide technical assistance as needed, prepare written  
7 29 monitoring reports at least quarterly, and provide a written  
7 30 report of an annual on-site assessment of all service  
7 31 providers funded by the area agency.

7 32 5. Coordinate the administration of its plan with federal  
7 33 programs and with other federal, state, and local resources in  
7 34 order to develop a comprehensive and coordinated service  
7 35 system.

8 1 6. Establish an advisory council.

8 2 7. Give preference in the delivery of services under the  
8 3 area plan to elders with the greatest economic or social need.

8 4 8. Assure that elders in the planning and service area  
8 5 have reasonably convenient access to information and referral  
8 6 services.

8 7 9. Provide adequate and effective opportunities for elders  
8 8 to express their views to the area agency on policy  
8 9 development and program implementation under the area plan.

8 10 10. Designate community focal points.

8 11 11. Contact outreach efforts, with special emphasis on the  
8 12 rural elderly, to identify elders with greatest economic or  
8 13 social needs and inform them of the availability of services  
8 14 under the area plan.

8 15 12. Develop and publish the methods that the agency uses  
8 16 to establish preferences and priorities for services.

~~8 17 13. Attempt to involve the area lawyers in legal  
8 18 assistance activities.~~

8 19 ~~14. 13.~~ Submit all fiscal and performance reports in  
8 20 accordance with the policies of the commission.

8 21 ~~15. 14.~~ Monitor, evaluate, and comment on laws, rules,  
8 22 regulations, policies, programs, hearings, levies, and  
8 23 community actions which significantly affect the lives of  
8 24 elders.

8 25 ~~16. 15.~~ Conduct public hearings on the needs of elders.

8 26 ~~17. 16.~~ Represent the interests of elders to public  
8 27 officials, public and private agencies, or organizations.

8 28 ~~18. 17.~~ Coordinate activities in support of the statewide  
8 29 long-term care resident's advocate program.

8 30 ~~19. 18.~~ Coordinate planning with other agencies and  
8 31 organizations to promote new or expanded benefits and  
8 32 opportunities for elders.

8 33 ~~20. 19.~~ Coordinate planning with other agencies for  
8 34 assuring the safety of elders in a natural disaster or other  
8 35 safety threatening situation.

~~9 1 21. Submit a report to the department of elder affairs  
9 2 every six months, of the name of each health care facility in  
9 3 its area for which the resident advocate committee has failed  
9 4 to submit the report required by rules adopted pursuant to  
9 5 section 231.44.~~

9 6 Sec. 10. Section 231.41, Code 2003, is amended to read as  
9 7 follows:

9 8 231.41 PURPOSE.

9 9 The purpose of this subchapter is to establish the long=  
9 10 term care resident's advocate program operated by the Iowa  
9 11 commission of elder affairs in accordance with the  
9 12 requirements of the ~~Older Americans federal Act of 1965~~, and  
9 13 to adopt the supporting federal regulations and guidelines for  
9 14 its implementation. In accordance with chapter 17A, the  
9 15 commission of elder affairs shall adopt and enforce rules for  
9 16 the implementation of this subchapter.

9 17 Sec. 11. Section 231.42, unnumbered paragraph 1, and  
9 18 subsections 1, 3, and 5, Code 2003, are amended to read as  
9 19 follows:

9 20 The Iowa commission of elder affairs, in accordance with  
9 21 section 3027(a)(12) of the federal Act, shall establish the  
9 22 office of long-term care resident's advocate within the  
9 23 ~~commission department~~. The long-term care resident's advocate  
9 24 shall:

9 25 1. Investigate and resolve complaints about administrative  
9 26 actions that may adversely affect the health, safety, welfare,  
9 27 or rights of elderly residents in long-term care facilities,  
9 28 excluding facilities licensed primarily to serve persons with  
9 29 mental retardation or mental illness.

9 30 3. Provide information to other agencies and to the public  
9 31 about the problems of elderly residents in long-term care  
9 32 facilities, excluding facilities licensed primarily to serve  
9 33 persons with mental retardation or mental illness.

9 34 5. Carry out other activities consistent with the  
9 35 ~~resident's advocate state long-term care ombudsman program~~  
10 1 provisions of the federal Act.

10 2 Sec. 12. Section 231.44, subsections 2, 3, and 4, Code  
10 3 2003, are amended to read as follows:

10 4 2. The responsibilities of the resident advocate committee  
10 5 are in accordance with the rules adopted by the commission  
10 6 pursuant to chapter 17A. When adopting the rules, the  
10 7 commission shall consider the needs of residents of elder  
10 8 group homes as defined in section 231B.1 and each category of  
10 9 licensed health care facility as defined in section 135C.1,  
10 10 subsection 6, and the services each facility may render. The  
10 11 commission shall coordinate the development of rules with the  
10 12 mental health and developmental disabilities commission  
10 13 created in section 225C.5 to the extent the rules would apply  
10 14 to a facility primarily serving persons with mental illness,  
10 15 mental retardation, or a developmental disability. The  
10 16 commission shall coordinate the development of appropriate  
10 17 rules with other state agencies.

10 18 3. A ~~health long-term~~ care facility shall disclose the  
10 19 names, addresses, and phone numbers of a resident's family  
10 20 members, if requested, to a resident advocate committee  
10 21 member, unless permission for this disclosure is refused in  
10 22 writing by a family member.

10 23 4. ~~Neither the~~ The state, nor any resident advocate  
10 24 committee member ~~is, any resident advocate coordinator, and~~  
10 25 ~~any sponsoring area agency on aging are not~~ liable for an  
10 26 action undertaken by a resident advocate committee member ~~or a~~  
10 27 resident advocate committee coordinator in the performance of  
10 28 duty, if the action is undertaken and carried out reasonably  
10 29 and in good faith.

10 30 Sec. 13. Section 231.57, Code 2003, is amended to read as  
10 31 follows:

10 32 231.57 COORDINATION OF ADVOCACY.

10 33 The department shall establish a program for the  
10 34 coordination of information and assistance provided within the  
10 35 state to assist elders in obtaining and protecting their  
11 1 rights and benefits. ~~The insurance division of the department~~  
11 2 ~~of commerce, office of the attorney general, the citizens'~~  
11 3 ~~aide, and other state~~ State and local agencies providing  
11 4 information and assistance to elders in seeking their rights  
11 5 and benefits shall cooperate with the department in developing  
11 6 and implementing this program. ~~The program shall include~~  
11 7 ~~review of health insurance policies marketed to elders and~~  
11 8 ~~other health-related written material distributed to elders~~  
11 9 ~~for marketing purposes.~~

11 10 Sec. 14. Section 231.58, subsection 4, paragraph a, Code  
11 11 2003, is amended to read as follows:

11 12 a. Develop, for legislative review, the mechanisms and  
11 13 procedures necessary to implement, ~~utilizing current~~  
11 14 ~~personnel,~~ a case-managed system of long-term care based on a  
11 15 uniform comprehensive assessment tool.

11 16 Sec. 15. Section 514D.5, subsections 3 and 4, Code 2003,  
11 17 are amended to read as follows:

11 18 3. The commissioner ~~after consultation with the commission~~  
11 19 ~~of elder affairs~~ shall prescribe disclosure rules for medicare  
11 20 Medicare supplement coverage which are determined to be in the  
11 21 public interest and which are designed to adequately inform  
11 22 the prospective insured of the need for and extent of coverage  
11 23 offered as medicare Medicare supplement coverage. For  
11 24 medicare Medicare supplement coverage, the outline of coverage  
11 25 required by subsection 2 shall be furnished to the prospective  
11 26 insured with the application form.

11 27 4. The commissioner ~~after consultation with the commission~~  
11 28 ~~of elder affairs~~ shall further prescribe by rule a standard  
11 29 form for and the contents of an informational brochure for  
11 30 persons eligible for medicare Medicare by reason of age, which  
11 31 is intended to improve the buyer's ability to select the most  
11 32 appropriate coverage and to improve the buyer's understanding  
11 33 of medicare Medicare. Except in the case of direct response  
11 34 insurance policies, the commissioner may require by rule that  
11 35 this informational brochure be provided to prospective  
12 1 insureds eligible for medicare Medicare concurrently with  
12 2 delivery of the outline of coverage. With respect to direct  
12 3 response insurance policies, the commissioner may require by  
12 4 rule that this brochure must be provided to prospective  
12 5 insureds eligible for medicare Medicare by reason of age upon  
12 6 request, but not later than at the time of delivery of the  
12 7 policy or contract. ~~The commissioner shall provide the~~  
12 8 ~~information received from insurers pursuant to subsection 3~~  
12 9 ~~and this subsection and information relating to section 231.59~~  
12 10 ~~to the director of the department of elder affairs.~~

12 11 Sec. 16. Sections 231.24, 231.54, 231.59, and 231.60, Code  
12 12 2003, are repealed.

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CHRISTOPHER C. RANTS  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and  
is known as House File 386, Eightieth General Assembly.

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MARGARET THOMSON  
Chief Clerk of the House

Approved \_\_\_\_\_, 2003

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THOMAS J. VILSACK  
Governor